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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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23585	7590	08/24/2005		
MICHAEL BEST & FRIEDRICH LLP 3773 CORPORATE PARKWAY SUITE 360 CENTER VALLEY, PA 18034-8217			EXAMINER TANNER, HARRY B	
			ART UNIT	PAPER NUMBER
			3744	

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/715,155

Applicant(s)

STREET ET AL. *C*

Examiner

Harry B. Tanner

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2005 and 31 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-86 is/are pending in the application.
- 4a) Of the above claim(s) See Continuation Sheet is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 14, 16, 21, 26, 27, 47-56, 58, 59, 65, 68, 72-75, 78, 79, 82, 83, 86 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/24/05</u> . | 6) <input type="checkbox"/> Other: _____ |

Continuation of Disposition of Claims: Claims withdrawn from consideration are 10-13,15,17-20,22-25,28-46,57,60-64,66,67,69-71,76,77,80,81,84 and 85.

Claims 10-13, 15, 17-20, 22-25, 28-46, 57, 60-64, 66-67, 69-71, 76-77, 80-81 and 84-85 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on 1/3/05.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 5-8, 16, 21, 26, 27, 47, 50-53, 65, 68, 72-73 and 75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Torimitsu (5,460,006) in view of DeWolf et al (5,279,458). Torimitsu discloses a commercial refrigeration system having compressor, condenser, valve, evaporator coil, fixture cooled by the evaporator coil, system controller 100 and a plurality of subsystem controller 10A-1, 10A-2 ... 10N-4 in digital communication with the system controller for transmitting set point data, detected data and control data. DeWolf teaches the use of a central controller 12 in order to monitor and control a plurality of subsystems 16 over a communication network. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Torimitsu such that it included the use of centralized control of subsystems in view of the teachings of DeWolf. It is inherent in the system controller of Torimitsu that the controller will have means for input and output to and from the user. The condenser of a refrigeration system is inherently

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located remotely from the fixture since it must discharge heat that the fixture adsorbs without sending the discharged heat into the compartment cooled by the fixture.

Claim 74 is rejected under 35 U.S.C. 103(a) as being unpatentable over Torimitsu (5,460,006) in view of DeWolf et al (5,279,458) as applied to claim 1 above, and further in view of Krueger et al (5,950,709). Krueger teaches the use of wireless communication between a controller and an input/output device (see col. 3, lines 9-17). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Torimitsu such that it included the use of wireless communication between a controller and an input/output device in view of the teachings of Krueger.

Claims 2, 9, 48, 54, 78-79, 82, 83 and 86 are rejected under 35 U.S.C. 103(a) as being unpatentable over Torimitsu (5,460,006) in view of DeWolf et al (5,279,458) as applied to claim 1 above, and further in view of Douglass (6,005,424). Douglass teaches the use of a data line providing power to an electronic device in order to eliminate the need for separate power and data wires (see col. 1, lines 21-29). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Torimitsu such that it included the use of a data line providing power to a subsystem controller in order to eliminate the need for separate power and data wires in view of the teachings of Douglass.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Torimitsu (5,460,006) in view of DeWolf et al (5,279,458) as applied to claim 1 above, and further in view of Rein et al (5,390,206). Rein teaches the use of wireless communication

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between a main controller and subsystem controllers in order to eliminate the need data lines. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Torimitsu such that it included the use of wireless communication between a main controller and subsystem controllers in view of the teachings of Rein.

Claims 3, 14, 49, 55-56 and 58-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Torimitsu (5,460,006) in view of DeWolf et al (5,279,458) as applied to claim 1 above, and further in view of Official Notice. Official Notice is taken that the control of compressors, condensers and pressure regulation valves are all well known and conventional in a refrigeration system art. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Torimitsu such that it included the control of compressors, condensers and pressure regulation valves in the subsystem refrigeration devices.

Applicant's arguments filed on 5/31/05 have been fully considered but they are not persuasive. For example, with respect to applicant's contention that neither Torimitsu nor Dewolf teach or suggest a commercial refrigeration system having all the limitations of claim 1, it is noted that Torimitsu is directed to food storage apparatuses that are managed by an administrative computer and that the condenser of a refrigeration system is inherently located remotely from the fixture since it must discharge heat that the fixture adsorbs. With regard to applicant's contention that there is not motivation in the cited prior art to combine the Torimitsu reference with the DeWolf reference, it is noted that the test for combining references is not what the

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reference themselves specifically teach but what one of ordinary skill in the art viewing the references as a whole would consider to have been obvious. Both Torimitsu and DeWolf are concerned with remote monitoring of refrigeration systems. It is the examiner position that one of ordinary skill in the art would look to systems that remotely monitor of refrigeration systems regardless of whether they are used food storage or not.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry B. Tanner whose telephone number is (571) 272-4813. The examiner can normally be reached 8:30 am to 5:00 pm Monday through Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler, can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Harry B. Tanner". The signature is fluid and cursive, with the first name "Harry" and last name "Tanner" clearly distinguishable.

Harry B. Tanner
Primary Examiner
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